



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0280]

RIN 1625-AA00

Safety Zone; Loading and Outbound Transit of TUG THOMAS and BARGE OCEANUS, Savannah River; Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary safety zone around the TUG THOMAS and BARGE OCEANUS during the loading and outbound transit of three oversized ship to shore (STS) cranes on the Savannah River from the Georgia Ports Authority, Garden City Terminal. This safety zone facilitates the safe loading and outbound transit of three oversized STS cranes from the Port of Savannah. A fixed safety zone will be enforced during the loading of the cranes on the barge and a moving safety zone will be enforced while the TUG THOMAS and BARGE OCEANUS are transiting outbound the Savannah River. This regulation is necessary to protect life and property on the navigable waters of the Savannah

River due to the hazards associated with the transport of these oversized cranes. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 11:59 p.m., July 1, 2015. For the purposes of enforcement, actual notice will be used from May 14, 2015 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0280. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Christopher McElvaine, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone (912) 652-4353 ext 221, e-mail [Christopher.D.McElvaine@uscg.mil](mailto:Christopher.D.McElvaine@uscg.mil). If you have questions on viewing or submitting material to the

docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the transit until April 6, 2015. Publishing a NPRM and delaying its effective date would be impracticable and contrary to public interest because immediate action is needed to protect the TUG THOMAS, BARGE OCEANUS, other vessels, and mariners from the hazards associated with the transit operations of three STS cranes from Georgia Ports Authority.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register for the same reasons discussed above.

#### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of life and vessels on a navigable waterway of the United States during the TUG THOMAS and BARGE OCEANUS ship to shore crane loading and outbound transit.

#### C. Discussion of the Final Rule

The Coast Guard is establishing this safety zone to facilitate the safe loading of cranes and outbound transit of the TUG THOMAS and the BARGE OCEANUS on the Savannah River. The large STS cranes pose a danger to other vessels that may meet, pass or attempt to overtake the TUG THOMAS and BARGE OCEANUS in the narrow waterway of the Savannah River. This safety zone is necessary to protect the safety of lives and persons during this transit.

A moving and fixed safety zone will be established when the TUG THOMAS and BARGE OCEANUS commence loading operations and begin outbound transit. It will cover all waters of the Savannah River one nautical mile ahead and astern of the TUG THOMAS and BARGE OCEANUS. During crane loading operations no vessel may pass TUG THOMAS and BARGE OCEANUS unless authorized by the COTP Savannah or designated representative and during the vessel's outbound transit, no other vessel may meet, pass, or overtake the TUG THOMAS and BARGE OCEANUS, unless authorized by the COTP Savannah or a designated representative.

Entry into the safety zone is prohibited for all vessels unless specifically authorized by the COTP Savannah or a designated representative. U.S. Coast Guard assets or designated representatives will enforce this safety zone, and coordinate vessel movements into the zone when safe to minimize the zone's impact on vessel movements. Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Savannah by telephone at (912)652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of

the Port Savannah or a designated representative. The Coast Guard will provide notice of the safety zones by Broadcast Notice to Mariners, and on-scene designated representatives.

This rule will only be enforced during loading operations and the outbound transit of the TUG THOMAS and BARGE OCEANUS and will remain in effect until the vessels have left the harbor. The COTP Savannah or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for this safety zone.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: This safety zone will only be enforced during

times of loading operations and the outbound transit of the TUG THOMAS and BARGE OCEANUS on the Savannah River. Once the TUG THOMAS and BARGE OCEANUS have exited the Savannah River, the safety zone will be terminated. The transit of the TUG THOMAS and BARGE OCEANUS is expected to take six to eight hours.

The Coast Guard has notified the Georgia Ports Authority and Savannah Pilots Association of the needs, conditions, and effective dates and times of the safety zone so that they may schedule arriving and departing vessels that may be affected by this safety zone to minimize shipping delays. The presence of other moored vessels is not expected to impede the safe loading and outbound transit of the TUG THOMAS and BARGE OCEANUS, and sufficient channel width is anticipated while the TUG THOMAS and BARGE OCEANUS are moored so that other vessels may transit through the area.

Notifications of the enforcement periods of this safety zone will be made to the marine community through broadcast notice to mariners. Representatives of the COTP will be on-scene to coordinate the movements of vessels seeking to enter the safety zone. These representatives will authorize vessel transits into the zone to the maximum safely allowable during the TUG THOMAS and BARGE OCEANUS

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-

612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Savannah River while TUG THOMAS and BARGE OCEANUS is transiting outbound on the Savannah River and while moored at Georgia Ports Authority. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The COTP Savannah may consider granting vessels permission to enter into the moving and fixed safety zone if conditions allow for such transit to be conducted safely, and (2) the Coast Guard will issue a broadcast notice to mariners informing the public of the safety zone.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule



would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this

rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of a temporary safety zone. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and

recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07-0280 to read as follows:

§ 165.T07-0280 Safety Zone; STS Crane Loading and Outbound transit of TUG THOMAS and BARGE OCEANUS Savannah River, Savannah, GA.

(a) Regulated area. The fixed safety zone will be centered on TUG THOMAS and BARGE OCEANUS while moored and conducting loading operations, extending 500 yards in all directions. The moving safety zone will cover all waters of the Savannah River one nautical mile ahead and astern of the TUG THOMAS and BARGE OCEANUS while transiting outbound with the ship to shore (STS) cranes onboard.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels,

and Federal, state, and local officers designated by or assisting the Captain of the Port Savannah in the enforcement of the regulated area.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Savannah or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zones may contact the Captain of the Port Savannah by telephone at (912)652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners and on-scene designated representatives.

(e) Effective period. This rule is effective on April 21,

2015 through May 31, 2015. This rule will be enforced when STS operations commence until TUG THOMAS and BARGE OCEANUS depart the Savannah River.

Dated: May 14, 2015.

A. M. Beach,  
Commander, U.S. Coast Guard,  
Captain of the Port Savannah.

[FR Doc. 2015-12637 Filed: 5/27/2015 08:45 am; Publication Date:  
5/28/2015]